

| Agenda Item | |
|-------------|---|
| A-1 | <p>No one wished to be heard during the Open Comment Period.</p> <p>A moment of silence was held for Police Officer Fred Fanning who passed away on August 30, 2004, after a lengthy illness.</p> <p>Boy Scout Troop #83 from Our Saviors' Lutheran Church was present in the audience.</p> |
| B-1 | <p>President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki, Walter Stobaugh. Absent: None. Also present Mayor Ardell F. Brede.</p> |
| C-1 | <p>Wishing to be heard was Rene Lawson, 430 Fifth Street S.W., concerning his sidewalk assessment. Mr. Lawson had previously testified before the Council on the cost of the sidewalk replacement on his property. Mr. Lawson said that the tree that caused the sidewalk to raise and, therefore, need replacing, was planted too close to the sidewalk. He said that it appears, because of the cement discoloration, that the sidewalk is less than ten years old. He asked the Council to waive the sidewalk replacement for his property. Staff had previously noted that the sidewalk was at least 20 years old. However, there no record of the previous sidewalk replacement project. The Council previously asked Mr. Lawson to pay the replacement costs.</p> <p>Staff has not been able to locate records of the previous sidewalk replacement. If the sidewalk had been privately replaced and no permit applied for, there would be no record.</p> <p>Councilmembers asked Mr. Lawson if he would pay one-half the cost since it was probably at least 10 years old. Mr. Lawson replied that he would.</p> <p>Councilmembers Marcoux moved, Stobaugh seconded, to direct staff to initiate the process needed to reduce the assessment to 50 percent of the cost for the sidewalk replacement. Ayes (7), Nays (0). Motion carried.</p> |
| C-2 | <p>Councilmembers Hanson moved, Nowicki seconded, to adopt Resolution No. 429-04 referring the petition from Gerald Gray, 404 Eagle Lane S.W., for extension of water service to serve his property to the Public Works Department for a feasibility study. Ayes (7), Nays (0). Motion carried.</p> |
| D-1-26 | <p>Councilmembers McConnell moved, Stobaugh seconded, to approve the following consent agenda items.</p> |
| D-1 | <p>Approved the minutes of the August 16 and 30, 2004, Council meetings.</p> |
| D-2 | <p>Appointed William Lynch to the Civic Music Board running to December 2007.</p> |
| D-3 | <p>Approved the City's participation in the Mayowood Road Trail and Trailhead Project appropriating the City's share of \$36,500 from Project No. J-4946.</p> |

| Agenda Item | |
|-------------|---|
| D-4 | Approved amending R.C.O. 85.20 to 85.24 broadening the scope of the categories of nuisances covered and allow for the City Administrator to designate the Planning Department as the enforcement entity to attempt to abate such nuisances and directed the City Attorney to prepare the required ordinance for adoption. |
| D-5 | Approved the termination of the "Flood Homes Agreement" with the Olmsted County Housing & Redevelopment Authority and the Community Housing Partnership. |
| D-6 | Adopted Resolution No. 429-04A dissolving Tax Increment District 2-1 (the Downtown TIF District) and returning excess tax increments to the local taxing jurisdictions. |
| D-7 | Approved an On-Sale Wine and 3.2% Malt Liquor License for PPE, Inc. DBA Piccadilly Circus Pizza located at 2280 Superior Drive N.W. |
| D-8 | Approved an On-Sale Wine and 3.2% Malt Liquor License for La Familia Restaurant located at 1352 Third Avenue S.E. |
| D-9 | <p>Approved the following Licenses and Miscellaneous Activities:</p> <p><u>Gambling – Temporary</u> Eagles Auxiliary #2228 – Pool Tournament – October 16, 2004 Beighley Cup – Kahler Hotel - Raffle & Pull Tabs – October 15 through 17, 2004.</p> <p><u>Sound Amplification</u> John Marshall High School – Homecoming Parade – October 1, 2004 – 4:00 to 5:00 PM.</p> <p><u>Miscellaneous City Activities</u> John Marshall High School – Homecoming Parade – October 1, 2004 – 4:00 to 5:00 PM. Sara Durhman – March of Dimes 5K Night Run – October 8, 2004 – 6:30 to 8:00 PM</p> |
| D-10 | Approved Accounts Payable in the amount of \$9,486,546.06 and Investment Purchases of \$8,991,344.44. |
| D-11 | Adopted Resolution No. 429-04B authorizing advances from other funds for the previously-approved tax increment projects. |
| D-12 | Adopted Resolution No. 430-04 authorizing the sale, setting the date of the sale as October 4, 2004, and specifying the terms of the sale for \$83,735,000 General Obligation Waste Water Revenue Bonds, Series 2004A. |
| D-13 | Approved Zoning District Amendment #04-11 to amend the flood fringe overlay district on property located in Wood Lake Park Second Subdivision, located south |

| Agenda Item | |
|-------------|---|
| | of TH52 and west of TH63 and instructed the City Attorney to prepare the required ordinance for adoption. |
| D-14 | Amended Section 85A.19 extending the termination of the curfew ordinance to September 30, 2006, and instructing the City Attorney to prepare the required ordinance for adoption. |
| D-15 | Adopted Resolution No. 431-04 approving the execution of the Development Agreement for the Fox Hill 4 th Development. |
| D-16 | Adopted Resolution No. 432-04 approving the Annexation and Utility Connection Agreement with Larry and Lori Kirkland for property located within Kalmar Township. |
| D-17 | Adopted Resolution No. 433-04 approving the Site Access Agreement obligating Robnik, LLP to pay the costs associated with Site Development Plan #04-05 in Northern Addition, Lots 1, 2, and 3. |
| D-18 | Adopted Resolution No. 434-04 approving the City/Owner Contract for Project No. J-5129 "Basic Construction in Fox Hill Fourth" with Deer Crest Development Company and Elcor Construction, Inc. |
| D-19 | Adopted Resolution No. 435-04 approving the City/Owner Contract for Project No. J-5086 "Watermain & Hydrants to Serve Rochester City Lines" with George Holter and Marilyn Holter, dba Rochester City Lines and Fraser Construction, Inc. |
| D-20 | Adopted Resolution No. 436-04 approving the contract with Ames Construction in the amount of \$523,136.00 for Project No. M2-48 (J-4005) "Regional Storm Water Pond West of West Circle Drive & 41 st Street N.W." |
| D-21 | See at end of D Items. |
| D-22 | Adopted Resolution No. 437-04 adding Paragraph 36 to Section H, Zone C "30 Minute Parking" of the Comprehensive Traffic and Parking Resolution Book as follows: |
| | (36) 7 th Street SW, from 150 feet to 235 feet, more or less, west of 6 th Avenue SW, on the north side, 8 AM to 5 PM, Monday through Friday. |
| D-23 | Adopted Resolution No. 438-04 approving execution of the Maintenance and Ownership Agreements with Rochester Town Offices, LLC, for Outlot A, Lots 2-4, Block 2 and Lot 4, Block 1 of Wood Lake Park 2 nd Subdivision. |
| D-24 | See at end of D Items. |
| D-25 | Adopted Resolution No. 439-04 approving two new rate schedules effective October 1, 2004: General Service-High Efficiency HVAC and Medium General Service-High Efficiency HVAC, for the Rochester Public Utilities. |

| Agenda Item | |
|-------------|--|
| D-26 | <p>Adopted the prepared resolution awarding the bid to Rochester Sand & Gravel in the amount of \$1,015,496.06 Project No. J-6981 "Relocation of County Road 16 S.W. to Accommodate the Extension of Runway 13/31 at the Rochester International Airport" and authorize the Mayor and City Clerk to sign the required State grant documents. Ayes (7), Nays (0). Motion carried.</p> <p>Also see after Item F-4 for later action.</p> |
| D-21 | <p>Councilmember Means clarified the contract award saying that the signal painting is not just for ten signals but rather 10 intersections where signals are located.</p> <p>Councilmembers Means moved, Marcoux seconded, to adopt Resolution No. 440-04 awarding the contract for Project No. J-6399 "2004 Painting of City of Rochester Traffic Signals" to Swanson & Youngdale in the amount of \$34,380.00. Ayes (7), Nays (0). Motion carried.</p> |
| D-24 | <p>Withdrawn at the request of Public Works. (City/Owner Contract for Project No. J-5151 "Basic Construction in Commerce Park" with AC PEM WEST LLC and Elcor Construction, Inc.)</p> |
| E-3 | <p>A Continued Hearing on Land Subdivision Permit #04-25 by Willow Creek Commons LLC to be known as Willow Creek Commons located along the west side of TH63 and along the south side of 40th Street S.W.</p> <p>Wishing to be heard was John Arnold, Dunlap and Seeger, representing the owner of Willow Creek Commons. He requested that this item be continued to the October 4, 2004, Council Meeting to allow further time to work out a compromise with the adjoining developer for the alignment of 40th Street S.W. He said that to date no compromise had been agreed upon.</p> <p>Councilmembers Means moved, Marcoux seconded, to continue the hearing on Land Subdivision Permit #04-25 by Willow Creek Commons LLC to be known as Willow Creek Commons to the October 4, 2004, Council meeting. Ayes (7), Nays (0). Motion carried.</p> |
| E-1 | <p>A Continued Hearing on Sewer Rates and Plant Investment Fees for 2004-2009.</p> <p>Wishing to be heard was Joan DeWitz, DeWitz Construction, 604 11th Avenue N.W. She asked the Council to be aware that they need to be careful on this. She said that growth should not be stifled in Rochester. A strong economy helps businesses in town.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Stobaugh seconded, to adopt Resolution No. 441-04 approving the Sewer Rates and Plant Investment Fees for 2004-2009 and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p> |

| Agenda Item | |
|-------------|--|
| E-2 | <p>A Hearing on the Proposal of the City to Abate Certain Property Taxes Levied by the City on the Property in the Downtown Tax Abatement District.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing. Councilmembers Stobaugh moved, Marcoux seconded, to adopt Resolution No. 442-04 approving the City to Abate Certain Property Taxes Levied by the City on the Property in the Downtown Tax Abatement District. Discussion.</p> <p>Councilmember McConnell noted that he was in opposition. He referred to the Post Bulletin editorial on September 1, 2004, stating "under TIF, the increased tax value between 1979 and today was given to special downtown construction projects such as the Peace Plaza. The same would be true with an abatement district except this time the tax abatement proposal would not use county or school tax funds, only money normally sent to the City budget for streets, fire or police or for other public works would be channeled to the downtown fund." Councilmember McConnell said this is a mistake.</p> <p>Ayes (6), Nays (1). Motion carried. Councilmember McConnell voted nay.</p> |
| E-4 | <p>A Continued Hearing on Final Plat #03-48 by Pebble Creek LLC to be known as Pebble Creek located along the west side of 60th Avenue and south of 55th Street N.W.</p> <p>Testimony taken was to apply to Item F-4 – Development Agreement for Pebble Creek – as well.</p> <p>Wishing to be heard was Bob DeWitz, President, Western Walls, 604 11th Avenue N.W. Mr. DeWitz said that the development agreement was submitted this evening and given to the Public Works Department.</p> <p>Richard Freese, Public Works Director, said that the document was looked at very briefly. He stated that there were a number of changes to the version prepared by Public Works.</p> <p>Wishing to be heard was Chuck DeWitz, 604 11th Avenue N.W. He said that they were not in agreement with Condition #6. Staff asked Mr. DeWitz if he would waive the time restriction between now and continue the hearing on September 20th. Mr. DeWitz replied no.</p> <p>Terry Adkins, City Attorney, in consult with Mitzi Baker, Planning Department, noted that the 120 day requirement continues until November 16th. Thus, a waiver of the time restriction was not needed.</p> <p>Councilmembers Nowicki moved, Stobaugh seconded, to continue the hearing on Final Plat #03-48 by Pebble Creek LLC to be known as Pebble Creek until September 20, 2004. Ayes (7), Nays (0). Motion carried.</p> |
| E-5 | <p>A Hearing on Type III, Phase II Amendment to Planned Unit Development R-4 (19 Norwest) to remove an accessory structure and swimming pool to redevelop with</p> |

| Agenda Item | |
|-------------|--|
| | <p>14 townhome units located along the west side of 26th Avenue NW and along the south side of Charles Court NW.</p> <p>Wishing to be heard was Bill Anderson, Yaggy-Colby Associates, representing the owner. They are in agreement with the six conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Means moved, Marcoux seconded, to adopt Resolution No. 443-04 approving Type III, Phase II Amendment to Planned Unit Development R-4 (19 Norwest) with six conditions. Ayes (7), Nays (0). Motion carried.</p> |
| E-6 | <p>A Hearing on Preliminary Plat #04-27 to be known as Stonehedge Estates 4th Subdivision by Stonehedge Development LLC located north of Jade Place NE and west of Emerald Hills Development and allows for the continuation of Stonehedge Drive NE.</p> <p>Wishing to be heard was Bill Anderson, Yaggy-Colby Associates, representing the owner. They are in agreement with the 12 conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Stobaugh seconded, to approve Preliminary Plat #04-27 to be known as Stonehedge Estates 4th Subdivision by Stonehedge Development LLC with 12 conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p> |
| E-7 | <p>A Hearing on Preliminary Plat #04-28 to be known as Hart Farm South by Arcon Development located along the north side of 40th Street SW, along the west side of 18th Avenue SW and south of the Hart Farm Development.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Terry Adkins, City Attorney, said that he and Gary Neumann, Administration, have become increasingly concerned about developments involving inadequate public facilities and the language found in the recommended conditions of approval. He asked that Condition #7 be amended to accurately reflect the "Prairie Crossing" language that the Council adopted to address inadequate public facilities. The language will be included in all final plats and General Development Plans in the future. The amended language for Condition #7 will be:</p> <p>Because on and off site public facilities are currently inadequate to handle the proposed development, the development must be phased-in in a manner consistent with the City's planned infrastructure improvements. As such, no development will occur and no further development permit will be issued until the Council determines public facilities are adequate to accommodate this development. Alternatively, should the developer voluntarily agree to join with the City in making these inadequate public</p> |

| Agenda Item | |
|-------------|--|
| E-8 | <p>facilities adequate for this development, the developer may enter into a Development agreement that outlines the developer's and City's obligations relating, but not limited, to: stormwater management, transportation improvements including right & left turn lanes at the proposed street intersections with 40th Street SW, access control, pedestrian facilities, right-of-way dedication, contributions for public infrastructure, and the extension of public utilities to abutting properties.</p> <p>Councilmembers Hanson moved, Nowicki seconded, to approve Preliminary Plat #04-28 to be known as Hart Farm South by Arcon Development with seven conditions including the amended seventh condition as recommended by Terry Adkins, City Attorney and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p> <p>A Hearing on Final Plat #04-07 by Ray Englander to be known as Fox Hill Fourth located south of Fox Valley Drive SW and along the west side of Baihly Hills Drive SW.</p> <p>Wishing to be heard was Kristi Clarke, McGhie & Betts, representing the developer. She noted that they were in agreement with the seven conditions.</p> <p>Mitzi Baker, Planning Department, noted a slight change in Condition #6. The first sentence should read: "The Grading Plan must be revised and re-submitted eliminating individual lot grading for Lots 2-7, Block 1.....". Kristi Clarke noted agreement with the change to the condition.</p> <p>Councilmembers Nowicki moved, Stobaugh seconded, to adopt Resolution No. 444-04 approving Final Plat #04-07 by Ray Englander to be known as Fox Hill Fourth with seven conditions including the change to Condition #6. Ayes (7), Nays (0). Motion carried.</p> |
| E-9 | <p>A Hearing on Text Amendment #04-02 to amend portions of Sections 60.146, 60.417, 60.521, 61.145, 61.210, 61.215, 61.225 and 62.824 of the Zoning Ordinance and Land Development Manual by Clarifying Where Appropriate or In Some Cases Eliminating References to the Comprehensive Plan in the text of those sections.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Stobaugh seconded, to approve Text Amendment #04-02 to amend portions of Sections 60.146, 60.417, 60.521, 61.145, 61.210, 61.215, 61.225 and 62.824 of the Zoning Ordinance and Land Development Manual and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p> |
| E-10 | <p>A Hearing to Consider the Making of Project No. J-6004 "Traffic Signal System, 55th Street NW (CSAH 22) at Chateau Road NW".</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> |

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
 Regular Meeting No. 21 - September 8, 2004
 CITY OF ROCHESTER, MINNESOTA

7160

| Agenda Item | |
|-------------|--|
| | <p>Councilmembers Marcoux moved, Nowicki seconded, to adopt Resolution Nos. 445-04, 446-04, and 447-04 ordering the Making of Project No. J-6004 "Traffic Signal System, 55th Street NW (CSAH 22) at Chateau Road NW". Ayes (7), Nays (0). Motion carried.</p> |
| E-11 | <p>A Hearing the Proposed Assessment on Project No. J-6004 "Traffic Signal System, 55th Street NW (CSAH 22) at Chateau Road NW".</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Marcoux seconded, to adopt Resolution No. 448-04 approving and levying the Proposed Assessment on Project No. J-6004 "Traffic Signal System, 55th Street NW (CSAH 22) at Chateau Road NW". Ayes (7), Nays (0). Motion carried.</p> |
| F-1 | <p>Councilmembers Hanson moved, Marcoux seconded, to table to October 4, 2004, the repeal of Ordinance #3492, Amended Official Street Map #12. Ayes (7), Nays (0). Motion carried.</p> |
| F-2 | <p>Councilmembers Hanson moved, Nowicki seconded, to adopt Resolution No. 449-04 closing completed improvement projects or completed phases within specific projects, and transferring unexpended balances pursuant to the City Charter and transfer the stated amounts to fund active projects listed on the Request For Council Action dated September 8, 2004. Ayes (7), Nays (0). Motion carried.</p> |
| F-3 | <p>Mitzi Baker, Planning Department, explained that an oversight in approval of the Final Plat south of Eastwood Road, east of Marion Road, adjacent to Casey's convenience store, resulted in two different zoning districts extending over Lot 2. She recommended that the Council initiate a hearing to rezone the lot to either B-1 or B-4.</p> <p>Councilmembers Stobaugh moved, Marcoux seconded, to initiate a Zoning District Amendment to correct unintentional extension of B-4 Zoning District standards resulting from subdivision of the property. Ayes (7), Nays (0). Motion carried.</p> |
| F-4 | <p>See Item E-4 – continued to September 20, 2004 (Development Agreement – Pebble Creek)</p> |
| D-26 | <p>Gary Neumann, Assistant City Administrator, noted that the award of the bid for relocation of CSAH16 will need to be continued as the needed right-of-way has not been obtained to date.</p> <p>Councilmembers McConnell moved, Marcoux seconded, to reconsider the action to Item D-26 – (Project No. J-6981 "Relocation of County Road 16 S.W. to Accommodate the Extension of Runway 13/31 at the Rochester International Airport") Ayes (7), Nays (0). Motion carried.</p> <p>Councilmember Hanson moved, McConnell seconded, to table the awarding of the bid for "Relocation of County Road 16 S.W. to Accommodate the Extension of</p> |

| Agenda Item | |
|-------------|--|
| | Runway 13/31 at the Rochester International Airport" until the needed right-of-way is obtained. Ayes (7), Nays (0). Motion carried. |
| G-2a | An Ordinance Amending and Reenacting Sections 85.20, 85.21, 85.23 and Subdivision 1 of Section 85.24 of the Rochester Code of Ordinances, Relating to the Maintenance of Open Areas and Premises in All Areas of the City, and the Abatement of Health and Safety Hazards, was given a first reading. |
| G-2b | An Ordinance Amending the Floodfringe Overlay Zoning District Incorporated into the Rochester Code of Ordinances, Relating to the Re-designation of Floodplain Boundaries Associated with Property Located in Wood Lake Park Second Subdivision, was given a first reading. |
| G-2c | An Ordinance Amending and Reenacting Section 85A.19 of the Rochester Code of Ordinances, Relating to the Re-adoption of the City's Curfew Ordinance, was given a first reading. Councilmembers Stobaugh moved, Nowicki seconded, to suspend the rules and give the Ordinance a second reading. Ayes (7), Nays (0). Motion carried. The Ordinance was given a second reading. Councilmembers Stobaugh moved, Nowicki seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. |
| G-2d | An Ordinance Amending and Reenacting Section 77.02 of the Rochester Code of Ordinances, Relating to Charges for Wastewater Facility Services, was given a first reading. |
| G-2e | An Ordinance Amending and Reenacting Sections 60.146, 60.531, 61.145, 61.210, 61.215, 61.225 and 62.824 of the Rochester Code of Ordinances, Relating to Compliance with the Comprehensive Plan, was given a first reading. |
| G-3a | An Ordinance Annexing to the City of Rochester Approximately 17.47 Acres of Land Located in a Part of the South Half of the Southeast Quarter of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota, was given a second reading. Councilmembers McConnell moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Annex Petition #04-11 – South side of Marion Road SE, North of 30 th Street SE) |
| G-3b | An Ordinance Annexing to the City of Rochester Approximately 19.19 Acres of Land Located in the South Half of the Southwest Quarter of Section 22, Township 106 North, Range 14 West, Olmsted County, Minnesota, was given a second reading. Councilmembers Marcoux moved, Means seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Annex Petition #04-12 – North side of 40 th Street SW, West of 18 th Avenue SW) |
| G-3c | An Ordinance Annexing to the City of Rochester Approximately 52.25 Acres of Land Located in the Northwest Quarter of Section 22, Township 106 North, Range 14 West, Olmsted County, Minnesota, was given a second reading. |

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
CITY OF ROCHESTER, MINNESOTA
Regular Meeting No. 21 – September 8, 2004

7162

Agenda
Item

J-1

Councilmembers Hanson moved, McConnell seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Annex Petition #04-13 – West of 18th Avenue SW, North of Hart Farms Development, South of Merrihills Development)

Having no further business, Councilmembers Marcoux moved, Hanson seconded, to recess the meeting to 4:15 P.M. on Monday, September 13, 2004. Ayes (7), Nays (0). Motion carried.


City Clerk